

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES -- GENERAL

Case No. **CV 11-2903-VBF(SSx)**

Dated: **August 17, 2011**

Title: Cosme Rafael Sibrian -v- JPMorgan Chase Bank, N.A., et al.

PRESENT: HONORABLE VALERIE BAKER FAIRBANK, U.S. DISTRICT JUDGE

Joseph Remigio
Courtroom Deputy

None Present
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFFS:

ATTORNEYS PRESENT FOR DEFENDANTS:

None Present

None Present

PROCEEDINGS (IN CHAMBERS):

**COURT ORDER SETTING OSC FOR DISMISSAL
FOR LACK OF SUBJECT MATTER
JURISDICTION AND VACATING HEARING RE
DEFENDANT JPMORGAN'S MOTION TO DISMISS
(DKT. #18)**

The Court sets an OSC re Dismissal for Lack of Subject Matter
Jurisdiction for **September 6, 2011** at **4:00 p.m.**

The Court has received, read and considered Defendant JPMorgan Chase Bank, N.A.'s ("JPMorgan") Motion to Dismiss the Complaint for Failure to State a Claim (dkt. #18), filed on July 1, 2011, Plaintiff Cosme Rafael Sibrian's Opposition (dkt. #23),¹ and JPMorgan's Reply (dkt. #26). The hearing set for **August 22, 2011** at **1:30 p.m.** is **VACATED** and the matter taken off-calendar, to be reset if appropriate.

Plaintiff's Complaint alleges that because Plaintiff filed a voluntary petition under chapter 13 of the Bankruptcy Code on January 13, 2011, the

¹ The Court notes that Plaintiff has failed to comply with Local Rule 11-6 and Section 9(c) of the Standing Order in this case (dkt. #8) through its filing of an Opposition of 33 pages in length, and admonishes Plaintiff to hereafter adhere to the Standing Order and all Local Rules.

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Court has jurisdiction over this case pursuant to 28 U.S.C. § 1334. Compl., ¶1. The Complaint further alleges that "[v]enue properly lies in this judicial district pursuant to 28 U.S.C. § 1409(a) in that the instant proceeding arises in or is related to the above-captioned case . . . under Title 11 of the United States Code . . . which is still pending." *Id.* at ¶2.

On May 23, 2011, *In re Sibrian*, Bankruptcy Case No. 2:11-bk-11592-TD (Bankr. C.D. Cal.) (the "Bankruptcy Case"), was dismissed. See Bankruptcy Case Dkt. #43. On July 13, 2011, the Bankruptcy Case was ordered closed. See Bankruptcy Case Dkt. #50.

Neither Plaintiff nor JPMorgan has addressed the current status of the Bankruptcy Case in the papers associated with JPMorgan's Motion to Dismiss. Nevertheless, before the Court addresses JPMorgan's Motion to Dismiss, the Court wishes to insure it properly has subject matter jurisdiction over this case. Accordingly, Plaintiff and JPMorgan shall each file and serve a response to this OSC no later than **August 25, 2011**.

If this OSC is discharged and the Court deems that it properly has subject matter jurisdiction over this case, JPMorgan's Motion to Dismiss shall be heard on **October 3, 2011 at 1:30 p.m.**

IT IS SO ORDERED.